

THE HONORABLE THOMAS S. ZILLY

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AUG 30 2001

CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
BY DEPUTY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON, AT SEATTLE

TOM O'BRIEN and GUARDIANSHIP SERVICES  
OF Seattle, Guardian ad Litem for DANIEL L.  
TOPHAM, D.D S , an incapacitated person,

Plaintiff,

v.

BAYER CORPORATION, a foreign corporation;  
SURVIVAL TECHNOLOGY, INC., a foreign  
corporation; MERIDIAN MEDICAL  
TECHNOLOGIES, INC., a foreign corporation, EM  
INDUSTRIES, INC., a foreign corporation, CENTER  
LABORATORIES, a Division of EM Industries, Inc ,  
a foreign corporation,

Defendants

NO. C00-813Z

MEMORANDUM IN SUPPORT OF  
PLAINTIFF'S MOTION FOR SUMMARY  
JUDGMENT DISMISSING DEFENDANT  
BAYER'S AFFIRMATIVE DEFENSES 3  
THROUGH 8 REGARDING  
APPORTIONMENT, COMPARATIVE  
FAULT, ASSUMPTION OF RISK, AND  
FAILURE TO MITIGATE DAMAGES

(FILED UNDER SEAL)

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CV 00-00813 #00000098

MORROW & OTOROWSKI, LLP  
ATTORNEYS AT LAW  
298 WINSLOW WAY WEST  
BAINBRIDGE ISLAND, WASHINGTON 98110  
(206) 842-1000, (206) 842-0797 FAX

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